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19
20 IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
21 WESTERN DIVISION

22
23 UNITED STATES OF AMERICA and
24 CALIFORNIA DEPARTMENT OF
TOXIC SUBSTANCES CONTROL

25 Plaintiffs,

26 v.

27 RATHON CORP.,

28 Defendant.

Civil Action No.
COMPLAINT

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1 9613(b), 42 U.S.C. § 6973, and 28 U.S.C. § 1391, because the claims arose and the
2 threatened and actual releases of hazardous substances occurred in the Western
3 Division of the Central District of California.

4 DEFENDANT

5 5. Defendant Rathon Corp. (incorporated in Delaware) is a “person” as
6 defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21), and Section
7 1004(15) of RCRA, 42 U.S.C. § 6903(15).

8 THE SITE

9 6. The Puente Valley Operable Unit of the San Gabriel Valley Superfund
10 Site, Area 4, is a geographic area of groundwater contamination located in Los
11 Angeles County, California. Groundwater from this area is used in domestic and
12 industrial water supply in the San Gabriel Valley. Pursuant to Section 105 of
13 CERCLA, 42 U.S.C. § 9605, in 1984, EPA designated the Site for the National
14 Priorities List, a list of hazardous waste sites posing the greatest threat to health,
15 welfare, or the environment. The Site was included on the National Priorities List
16 given the presence of chlorinated organic solvents throughout much of the
17 groundwater. See 49 Fed. Reg. 19480 (1984).

18 7. The Site is a “facility” within the meaning of Section 101(9) of
19 CERCLA, 42 U.S.C. § 9601(9).

20 8. Hazardous substances within the meaning of Section 101(14) of
21 CERCLA, 42 U.S.C. § 9601(14), including, but not limited to tetrachloroethene
22 (“PCE”) and trichloroethene (“TCE”), have been found at the Site.

23 9. There has been a “release” and/or threatened “release” of a hazardous
24 substance at or from the Site, within the meaning of Section 101(22) of CERCLA, 42
25 U.S.C. § 9601(22).

26 10. In 1998, EPA issued an Interim Record of Decision requiring remedial
27 action to contain contaminated shallow and intermediate zone groundwater from the
28 Site at the mouth of the Puente Valley.

11. On June 14, 2005, EPA published an Explanation of Significant Differences (“ESD”) for the Interim Record of Decision, pursuant to Section 117(c) of CERCLA, 42 U.S.C. § 9617(c). The ESD requires the containment and treatment of 1,4 dioxane, an additional contaminant of concern recently identified at the Site. The ESD also requires the treatment of perchlorate under certain circumstances.

12. The United States and DTSC have incurred and continue to incur response costs (including interest) in responding to releases or threatened releases of hazardous substances at the Site, which costs are not inconsistent with the national contingency plan.

FIRST CLAIM FOR RELIEF
PERFORMANCE OF RESPONSE ACTIONS UNDER CERCLA

13. Paragraphs 1 through 12 are incorporated herein by reference.

14. Section 106 (a) of CERCLA, 42 U.S.C. § 9606(a), provides in pertinent part:

[W]hen the President determines that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance from a facility, he may require the Attorney General of the United States to secure such relief as may be necessary to abate such danger or threat

15. The President or his delegate, the Regional Administrator, has determined that the release and/or threatened release of a hazardous substance at or from the Site poses an imminent and substantial endangerment to the public health, welfare, or the environment, and that response actions are necessary to abate the danger or threat posed by the actual or threatened release of hazardous substances at or from the Site.

1 16. Defendant is liable to perform response actions at the Site to abate this
2 danger or threat, pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606.

3 SECOND CLAIM FOR RELIEF
4 COST RECOVERY UNDER CERCLA

5 17. Paragraphs 1 through 12 are incorporated herein by reference.

6 18. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides in pertinent
7 part:

8 (a) Notwithstanding any other provision or rule of law,
9 and subject only to the defenses set forth in subsection (b)
10 of this section --

11 (2) any person who at the time of disposal of any hazardous substance
12 owned or operated any facility at which such hazardous substances
13 were disposed of . . . from which there is a release, or threatened
14 release which causes the incurrence of response costs, of a hazardous
15 substance . . .

16 shall be liable for --

17 (A) all costs of removal or remedial action incurred by the
18 United States Government or a State . . . not inconsistent with the
19 national contingency plan

20 19. Defendant is liable as a person who owned or operated a facility from
21 which there were releases of hazardous substances into the environment within the
22 meaning of Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

23 20. Defendant is jointly and severally liable for response costs (including
24 interest) incurred by the United States and DTSC in connection with the Puente
25 Valley Operable Unit of the San Gabriel Valley Superfund Site, Area 4.

26 21. Pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), the
27 United States and DTSC are entitled to a declaratory judgment that Defendant is
28 jointly and severally liable for such future response costs that the United States and

1 DTSC may incur in connection with the Site.

2 THIRD CLAIM FOR RELIEF
3 PERFORMANCE OF RESPONSE ACTIONS UNDER RCRA

4 22. Paragraphs 1 through 12 are incorporated herein by reference.

5 23. Section 7003(a) of RCRA, 42 U.S.C. § 6973(a), provides in pertinent
6 part:

7 [U]pon receipt of evidence that the past or present
8 handling, storage, treatment, transportation or disposal of any solid
9 waste or hazardous waste may present an imminent or substantial
10 endangerment to health or the environment, the Administrator may
11 bring suit on behalf of the United States . . . against any person . . . to
12 restrain such person from such handling, storage, treatment,
13 transportation, or disposal, to order such person to take such other
14 action as may be necessary, or both.

15 24. Solid and/or hazardous wastes are present at the Site as defined in
16 Section 1004 of RCRA, 42 U.S.C. § 6903.

17 25. Defendant's handling, storage, treatment, transportation, or disposal of
18 solid and/or hazardous waste at the Site may present an imminent and substantial
19 endangerment to health or the environment.

20 26. Defendant is liable for certain actions at the Site in order to abate the
21 danger or threat to health or the environment, pursuant to Section 7003 of RCRA, 42
22 U.S.C. § 6973.

23 PRAYER FOR RELIEF

24 WHEREFORE, Plaintiffs, the United States and DTSC, respectfully request
25 that this Court:

26 1. Order Defendant to perform response actions necessary to abate the
27 danger or threat of a release of hazardous substances at or from the Site, pursuant to
28 Section 106 of CERCLA, 42 U.S.C. § 9606;

1 2. Enter judgment in favor of the United States and DTSC, pursuant to
2 Section 107(a) of CERCLA, 42 U.S.C. § 9607, holding Defendant liable for all
3 unreimbursed costs incurred by the United States and DTSC with respect to the Site,
4 plus accrued interest thereon;

5 3. Enter a declaratory judgment on Defendant's liability for response costs
6 or damages that will be binding on any subsequent action or actions to recover
7 further response costs or damages; pursuant to Section 113(g)(2) of CERCLA, 42
8 U.S.C. § 9613(g)(2);

9 4. Order Defendant to take action necessary to abate the imminent and
10 substantial endangerment to health or the environment pertaining to releases and
11 threatened releases of solid and/or hazardous waste at the Site, pursuant to Section
12 7003(a) of RCRA, 42 U.S.C. § 6973(a); and

13 5. Grant the United States and DTSC such other relief as the Court deems
14 appropriate.

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16 Dated: _____, 2006.

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18 FOR THE UNITED STATES OF AMERICA

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1 Dated: _____, 2006.

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